

Nalco Docket No.: 7759
Customer No. 000049459

OFFICIAL**REMARKS**

This is reply to the Office Action mailed on March 15, 2006 ("Office Action").

Claims 1-19 are currently pending.

Claims 1-13 are withdrawn from consideration pursuant to a restriction requirement under 35 U.S.C. § 121.

Claims 14 and 16 are rejected under 35 U.S.C. § 102(b) over Patent No. 4,880,566 ("Baehr").

Claim 15 is objected to as being based on a rejected base claim.

Claim 17 is rejected under 35 U.S.C. § 103(a) over Patent No. 4,880,566 ("Baehr") in view of Patent No. 4,614,646 ("Christiansen").

Claim 18 is rejected under 35 U.S.C. § 103(a) over Patent No. 4,880,566 ("Baehr").

Claims 1-13 are cancelled without prejudice to reduce the matters at issue.

Claims 14 and 15 are amended to particularly point out and distinctly claim subject matter which Applicant regards as his invention. Support for this amendment is found in the specification at page 12, lines 13-19 and page 19, lines 5-7.

New claims 20-24 are added to particularly point out and distinctly claim subject matter which Applicant regards as his invention. Support for new claims 20-24 is found in original claims 15-19.

No new matter is added.

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DISCUSSION

The Rejection of Claims 14 and 16 under 35 U.S.C. § 102(b) over Patent No. 4,880,566

Claims 14 and 16 are rejected under 35 U.S.C. § 102(b) over Patent No. 4,880,566 ("Baehr").

Applicant respectfully traverses this rejection.

Applicant has amended claim 14 to recite a synergistic mixture which consists of (i) from about 40 weight % to about 60 weight % water; (ii) from about 20 weight % to about 95 weight % diethylenetriaminepentakis(methyl)phosphonic acid or its known salts; (iii) from about 5 weight % to about 50 weight % polyacrylic acid or its known salts; and optionally (iv) base for pH adjustment and from about 1 weight % to about 20 weight % of one or more inert compounds. Support for this amendment is found throughout the specification, particularly at page 12, lines 13-19 and page 19, lines 5-7.

Applicant respectfully asserts that Baehr, which concerns stabilizing mixtures for aqueous peroxide bleaching baths, discloses a mixture comprising (a) polyhydroxy and/or hydroxycarboxylic acids and their salts; (b) polyacrylic acids and their partially neutralized form; and (c) polyamine and/or amine polyphosphonic acids and their salts where components (a)-(c) are present in a ratio of 1 to 6: 0.2:1: 0.4:4.

Accordingly, Applicant respectfully asserts that amended claims 14 and 16 recite a different composition as the claimed composition does not include component (a) of the composition disclosed by Baehr.

With regard to synergy, the Examiner states:

Applicants assert that the stabilizer mixture of prior art reference Baehr (US004880566) is not synergistic. However, Baehr (US004880566) disclose the mixture comprising components A ~ D which meets synergistic mixture as claimed by applicants. Applicants are suggested to provide evidence that the mixture of Baehr (US004880566) is not synergistic mixture for enhancing the brightness of bleached pulp. Mere counsel's arguments unsupported by factual evidence are given little weight.

Office Action at page 4.

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Applicant respectfully disagrees with the Examiner's conclusions regarding synergy quoted above. Applicant respectfully points out that the claimed synergy is disclosed in the specification at page 12, lines 13-19 and shown in the Examples. Accordingly, Applicant respectfully asserts that counsel has not made unsupported statements in this regard but merely pointed out the synergy discussion in the application as filed, which the Examiner is bound to take as proven unless he can provide documented evidence to the contrary.

Further in this regard, as discussed above, Applicant respectfully asserts that the claimed invention is clearly different than the composition disclosed by Baehr as the claimed composition does not include component (a) according to Baehr. As the claimed composition is different from the composition of Baehr, Applicant should not be required to prove a negative, i.e. that a different prior art composition would not exhibit the synergy demonstrated for the claimed composition if applied to the claimed system.

The Examiner's attention is also respectfully directed Examples I-II of Baehr, both of which concern bleaching of cotton. Inspection of the Examples reveals the relatively high amount of sodium gluconate (component (a)) relative to DTPMP (6.3 and 2.8 times by weight, respectively) and partially neutralized polyacrylic acid (7.3 and 8.5 times by weight, respectively). Applicant respectfully asserts that nothing in Baehr teaches or suggests that sodium gluconate can be removed from the composition disclosed therein or that the resulting composition can be used to enhance the whiteness of bleached pulp material as claimed.

Accordingly, as Baehr discloses a composition different from the claimed composition, and nothing in Baehr teaches or suggests modification of the composition disclosed therein or its application to bleached pulp material, Applicant respectfully requests withdrawal of the rejection of claims 14 and 16 under 35 U.S.C. § 102(b) over Baehr.

The Rejection of Claim 17 under 35 U.S.C. § 103(a) over Patent No. 4,880,566 in view of Patent No.

4,614,646

Claim 17 is rejected under 35 U.S.C. § 103(a) over Patent No. 4,880,566 ("Baehr") in view of Patent No. 4,614,646 ("Christiansen").

Applicant respectfully traverses this rejection.

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As discussed above, Applicant respectfully asserts that Baehr does not disclose a composition which does not contain polyhydroxy-and/or hydroxycarboxylic acids and their salts and which is used to stabilized peroxide bleaching baths in the absence of silicate and magnesium. See Abstract. Christiansen, meanwhile, concerns a hydrogen peroxide solution, which is stabilized against decomposition in the presence of metal ions, including magnesium. See Abstract.

Applicant respectfully asserts, therefore, that there is not basis in either Baehr or Christiansen supportive of their combination.

Applicant further respectfully asserts that Christiansen provides no basis for selecting sodium acrylate from among the list of polymers disclosed therein, the claimed ratios of the components, or that such a composition would have any utility for brightness enhancement or be synergistic with respect to brightness enhancement.

Accordingly, Applicant respectfully asserts that there is no motivation in either Baehr or Christiansen supportive of their combination and even if the references are combined, the end result would be different from the claimed invention. Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 17 under 35 U.S.C. § 103(a) over Baehr in view of Christiansen.

The Rejection of Claim 18 under 35 U.S.C. § 103(a) over Patent No. 4,880,566

Claim 18 is rejected under 35 U.S.C. § 103(a) over Patent No. 4,880,566 ("Baehr").

Applicant respectfully traverses this rejection.

Applicant has carefully reviewed Baehr and is unable to find any disclosure of the claimed inert ingredients (sodium sulfate, ammonium sodium sulfate and sodium chloride) or their amounts in the disclosed composition which is, in any event, different from Applicant's composition. Further in this regard, Applicant respectfully asserts that Baehr concerns silicate- and magnesium-free stabilized hydrogen peroxide solutions while the compositions of this invention are contemplated for use in systems containing both silicate and magnesium. Specification at page 6, lines 12-16. Accordingly, as there is no disclosure of the claimed inert ingredients in Baehr and further as Baehr concerns a different problem, Applicant respectfully requests withdrawal of the rejection of claim 18 under 35 U.S.C. § 103(a) over Baehr.

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New Claims 20-24

New claim 20 is original claim 15, drafted in independent form as suggested by the Examiner. New claims 21-24 correspond to original claims 16-19 and depend directly or indirectly from claim 20.

Applicant respectfully asserts that the Examiner has indicated that original claim 15 would be allowable if drafted in independent form. Accordingly, Applicant respectfully asserts that new claim 20, and dependent claims 21-24 should likewise be allowable.

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CONCLUSION

In view of the foregoing amendment and remarks, Applicant respectfully requests withdrawal of the rejections under §§ 102(b) and 103(a) and asserts that this application is in condition for allowance. Early notice to this effect is earnestly solicited.

Respectfully Submitted,

Michael B. Martin

Michael B. Martin, Reg. No. 37,521
Nalco Company
Patent & Licensing Department
1601 W. Diehl Road
Naperville, IL 60563-1198

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